

that the proposed facilitation does provide substantially equivalent accessibility to passengers with disabilities, compared to compliance with the provision of this part in question.

(e) If your application is granted, you will be deemed to be in compliance with this part through implementing the equivalent alternative. If your application is denied, you must implement this part as written.

(f)(1) If you submit your application on or before September 10, 2008, the Department will respond to the request before May 13, 2009 to the maximum extent feasible. If the Department does not respond to the application by May 13, 2009, you may implement your policy or practice that is the subject of your application until the Department does respond.

(2) With respect to an application you make after September 10, 2008, you must comply with the provisions of this part without change from May 13, 2009 until the Department responds to your application.

Subpart B—Nondiscrimination and Access to Services and Information

§ 382.11 What is the general nondiscrimination requirement of this part?

(a) As a carrier, you must not do any of the following things, either directly or through a contractual, licensing, or other arrangement:

(1) You must not discriminate against any qualified individual with a disability, by reason of such disability, in the provision of air transportation;

(2) You must not require a qualified individual with a disability to accept special services (including, but not limited to, preboarding) that the individual does not request. However, you may require preboarding as a condition of receiving certain seating or in-cabin stowage accommodations, as specified in §§ 382.83(c), 382.85(b), and 382.123(a) of this part.

(3) You must not exclude a qualified individual with a disability from or deny the person the benefit of any air transportation or related services that are available to other persons, except where specifically permitted by this

part. This is true even if there are separate or different services available for individuals with a disability, except when specifically permitted by another section of this part; and

(4) You must not take any adverse action against an individual (*e.g.* refusing to provide transportation) because the individual asserts, on his or her own behalf or through or on behalf of others, rights protected by this part or the Air Carrier Access Act.

(b) As an indirect carrier, you must comply with §§ 382.17 through 382.157 of this part when providing facilities or services to passengers that would have otherwise been provided by a direct air carrier.

[Docket OST-2004-19482, 73 FR 27665, May 13, 2008, as amended at 75 FR 44887, July 30, 2010]

§ 382.13 Do carriers have to modify policies, practices, and facilities to ensure nondiscrimination?

(a) As a carrier, you must modify your policies, practices, and facilities when needed to provide nondiscriminatory service to a particular individual with a disability, consistent with the standards of section 504 of the Rehabilitation Act, as amended.

(b) This requirement is part of your general nondiscrimination obligation, and is in addition to your duty to make the specific accommodations required by this part.

(c) However, you are not required to make modifications that would constitute an undue burden or would fundamentally alter your program.

§ 382.15 Do carriers have to make sure that contractors comply with the requirements of this part?

(a) As a carrier, you must make sure that your contractors that provide services to the public (including airports where applicable) meet the requirements of this part that would apply to you if you provided the services yourself.

(b) As a carrier, you must include an assurance of compliance with this part in your contracts with any contractors that provide services to the public that are subject to the requirements of this part. Noncompliance with this assurance is a material breach of the contract on the contractor's part.